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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,766	04/30/2001	James Talaric	4-01	4613
23713	7590	05/03/2005	EXAMINER	
GREENLEE WINNER AND SULLIVAN P C			RAJGURU, UMAKANT K	
4875 PEARL EAST CIRCLE			ART UNIT	
SUITE 200			PAPER NUMBER	
BOULDER, CO 80301			1711	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/846,766

Applicant(s)

TALARIC ET AL.

Examiner

Umakant K. Rajguru

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29, 46 and 47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29, 46 & 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. An RCE has been filed on Feb 16, 2005.
2. Claims being examined are still the same viz. 1-29, 46 & 47.
3. Prior to this office action, the examiner had an interview with James Barber (Inventor) and Ellen Winner (Attorney). Summary of that interview is attached herewith.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9-11 are vague in reciting "polymer mix" because the precise scope of these claims cannot be ascertained.

6. Rejection of claims 1-3, 5 and 9-11 under 35 USC 102 (b) (see earlier office action of May 06, 2004, item 5) is now withdrawn.

7. Claims 1-29, 46 & 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graefe (US 5002475) in view of Kennedy et al (US 6290614) and Hirai et al (US 4367307).

Please refer to earlier office action of Jul 22, 2003, item 9 for this rejection.

Instant claims are not limited to a mannequin though instant specification refers to a form with specific reference to a mannequin. It is true that Graefe discloses an article made using injection molding and not rotational molding as in instant claim 2. It

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is the examiner's position that claim 2 encompasses a product-by-a process and it is immaterial which process is used in prior art, to make that product as long as the product is disclosed by the prior art, unless it is proved that the product of the prior art is patentably distinguishable from the claimed one.

Instant claim 1 has been amended by including the limitation of instant claim 6. Prior art does not expressly disclose this limitation. Nonetheless since prior art discloses the claimed form or article made from claimed raw materials, it is reasonable to assume, unless proved to be otherwise, that prior art satisfies this limitation.

It is also obvious to prepare an article having different shapes and sizes, such as a mannequin (of claim 47) which can be hollow (of claim 46).

Since Graefe teaches mixing of colorants and other ingredients, it is reasonable to infer that the mixing is done uniformly throughout the mass. It is also obvious to use a pigment or a dye of a certain hardness to optimize the appearance and texture of surface of the molded article. It is also obvious (a) to adjust abrasion resistance of molded article so that any protruding material or flash can be removed by grinding with a sand paper (instant claim 12), (b) to adjust the composition to achieve a certain impact strength (instant claim 13) and (c) to adjust physical properties (of instant claims 14-23).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umakant k. Rajguru whose telephone number is 571-

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272-1077. The examiner can normally be reached on Monday-Friday and 9:30a.m-6:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rajguru/tgd

April 26, 2005

  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700